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Remarks:

*Regarding the claims*

The applicant thanks the Examiner for indicating that all but present claim 8 are considered allowable over the prior art of record. The applicant requests reconsideration of the continued rejection of claim 8 in view of the remarks presented below.

*Regarding the rejection of claim 8 under 35 USC 102(b) in view of McCarthy, et al. Journal of American Chem. Society, vol. 79, No. 2, pp. 472-480:*

The applicant respectfully traverses the present rejection in view of the McCarthy reference.

The applicant's disagree with the Examiner's statement that "... It is noted that the Examiner reads the term 'aryl' as an organic radical derived from an aromatic compound by the removal of one atom (in this case a hydrogen atom) and thus the radicals pyridyl and phenyl in [McCarthy's] compound 41A meets that definition." The applicant believes that the Examiner's definition of "aryl" is improper; reference is made to the *Oxford English Dictionary* and its definition of "aryl"; viz:

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Entry printed from *Oxford English Dictionary* © Oxford University Press 2009

## aryl Chem.

(ˈæɪl, also commonly ˈæraɪl)

[ad. G. *arryl* (D. Vorländer 1899, in *Jrnl. Prakt. Chemie* LIX. 247), now *aryl*, f. AR(OMATIC + -YL.)

A general term for an organic radical derived from an aromatic hydrocarbon by the removal of one hydrogen atom. So **arylation**, the introduction of an aryl group into a substance.

1906 M'GOWAN & SUDBOROUGH tr. A. Bernthsen's *Textbk. Org. Chem.* xxi. 365 The purely aliphatic alkyl radicals are termed aliphyl groups, and the aromatic, aryl. 1918 J. C. CAIN *Manuf. Intermed. Prod. for Dyes* 4 Arylation is usually effected by means of the corresponding amine. 1955 BROWN & DEY *India's Mineral Wealth* (ed. 3) x. 391 Some of the more stable silicone esters, the aryl and higher alkyl silicates, are said to show promise as liquid media for heat-exchange and hydraulic systems. 1958 *Oxf. Univ. Gaz.* 23 Apr. 881 A quantitative study of the arylation of naphthalene by free radical reactions. 1939 *Times* 17 Mar. 4/3 Alkyl aryl sulphonates.

Reference is also made to the entry for "aryl" in *Wikipedia* (<http://en.wikipedia.org/wiki/Aryl>) which reads:

## Aryl

### From Wikipedia, the free encyclopedia

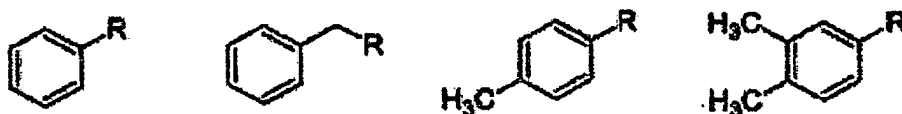
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This article is about the aryl organic functional group. For the biological gene, see [Aryl hydrocarbon receptor](#). For the fleshy covering of certain seeds, see [aril](#).

In the context of organic molecules, aryl refers to any [functional group](#) or [substituent](#) derived from a [simple aromatic ring](#), may it be [phenyl](#), [thiophenyl](#), [indolyl](#), etc (see [IUPAC nomenclature](#))<sup>[1]</sup>. "Aryl" is used for the sake of abbreviation or generalization.

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A simple aryl group is phenyl,  $C_6H_5$ ; it is derived from benzene. The tolyl group,  $CH_3C_6H_4$ , is derived from toluene (methylbenzene). The xylyl group,  $(CH_3)_2C_6H_3$ , is derived from xylene (dimethylbenzene).



A few different types of benzene derived aryl groups. From left to right: phenyl, benzyl, tolyl, o-xylyl.

Biaryls may display axial chirality. **Arylation** is simply any chemical process in which an aryl group is attached to a substrate.

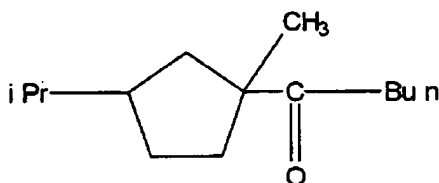
Thus, it is contended that a skilled artisan would thus not equate McCarthy's "pyridyl" and "phenyl" with a "pyridyl" as claimed in applicant's claim 8. Thus, McCarthy fails to anticipate the currently claimed compounds according to applicant's claim 8, and the rejection should properly be withdrawn.

*Regarding the rejection of claim 8 under 35 USC 102(b) in view of Abramov et al (Zhurnal Obshchei Khimii (1952), 22, 1450-1457) (hereinafter "Abramov"):*

The applicant respectfully traverses the present rejection in view of the Abramov document, especially in view of the amended claim 8 presented in this paper which is believed to fully distinguish over Abramov.

In the outstanding *Office Action*, the Examiner asserts that applicant's present claim 8 would be "anticipated" by the following Abramov compound:

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Abramov

The applicant disagrees with the Examiner's assertion as, applicant is not claiming compounds wherein R<sup>1</sup> is n-butyl (= C<sub>4</sub> alkyl), rather applicant's presently claimed compounds of claim 8 claim compounds wherein R<sup>1</sup> is C<sub>2</sub> alkyl, thus, C<sub>4</sub> alkyl is not encompassed in claim 8. Accordingly, the rejection should properly be withdrawn.

In view of the foregoing, reconsideration of the propriety of the outstanding grounds of rejection and indication of allowable subject matter in the presently amended claims is solicited.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned representative would meaningfully advance the prosecution of this application towards allowance, the Examiner is invited to contact the undersigned at their earliest convenience.

Early issuance of a *Notice of Allowability and Issue Fee Due* is solicited.

#### CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

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Respectfully Submitted;



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CERTIFICATE OF TELEFAX TRANSMISSION UNDER 37 CFR 1.8

I certify that this document, and any attachments thereto, addressed to the:  
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Allyson Ross

23 June 2009  
Date

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